

Vanderburgh Misc 82M15CO1

(4)

### CONTRACT FOR TRENDING SERVICES

This contract is entered into this 21<sup>ST</sup> day of JUNE ~~2005~~ and between the Vanderburgh County Commissioners representing the Vanderburgh County, Township and Trustee Assessors hereinafter referred to as the "Assessor", and Appraisal Research Corporation, an Ohio Corporation with offices in Greensburg, Indiana, licensed to do business in Indiana, hereinafter referred to as "Professional Appraiser".

### **RECITALS**

- A. The Assessor has determined that she should employ the Professional Appraiser as a technical advisor for general assessment purposes according to the provisions of IC 6-1.1-4-17;
- B. The Assessor wishes to contract with the Professional Appraisers and the Professional Appraisers are willing to be contracted by the Assessor;
- C. The Professional Appraiser is a Professional Appraiser as that term is defined in IC 6-1.1-4-17(c) and IC 6-1.1-31.7;
- D. This Contract is subject to the provisions of 50 IAC 15, and Professional Appraiser will comply with the provisions of 50 IAC 15 in connection with this Contract; and

### **AGREEMENT**

In consideration of the premises, mutual covenants and obligations of the parties, the Assessor and Professional Appraiser agree as follows:

#### 1. Incorporation Of Recitals.

The foregoing recitals are adopted by the parties as being true and accurate statements, and are hereby incorporated as binding representations of this Agreement.

#### 2. Counties Responsibilities.

The Assessor will provide copies of forms such as verified and validated sales disclosures, questionnaires and property record cards, maps etc. as needed to assist the Professional Appraiser with completion of the project. The Assessor will provide an electronic download of sales disclosure information.

**RECEIVED**

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### **3. Duties of Professional Appraiser.**

During the term of this Agreement, the Professional Appraiser shall provide verbal and/or written reports, communications, data analysis and other related and necessary information to the Assessor. The Assessor and the Professional Appraiser may alter the scope and nature of the Services only upon mutual written Agreement. The Professional Appraiser shall work closely with the Assessor to ensure that the Professional Appraiser completes those duties necessary so that the Assessor meets all statutory deadlines and other delivery dates contained herein. The Professional Appraiser agrees to work in conjunction with the Assessor to integrate and transfer information so as to provide information to the Assessor in a uniform format.

The Professional Appraiser agrees to provide all ratios, statistics, and final data in one of the following formats: Microsoft EXCEL, ACCESS or any similar spreadsheet and/or database format as provided by the Assessor. The foregoing may be integrated with the Vanderburgh County's geographic information system at the Assessor's discretion and expense. All ratio and neighborhood or market adjustment factor algorithms will be provided with accompanying documentation.

The Professional Appraiser shall follow all rules and regulations adopted by the Department of Local Government Finance (DLGF) to allow for fair and equitable valuation of the classes of real property included in the Contract.

The Professional Appraiser shall conduct a complete review of the 2002 land valuation base rates to determine if those base rates either represent current market valuations or need revised to reflect the current valuation date of January 1, 2005. Changes, if determined, will be made by the Professional Appraiser in report form indicating the effected geographic area, the newly determined land value base rate and any other change deemed appropriate. Support documentation will be provided showing cause for such change.

The Professional Appraiser shall perform Ratio Studies from a download of the current real property data for commercial improved and vacant and industrial improved and vacant parcels. This study shall be done Township by Township. The median, coefficient of dispersion and the price related differential shall be provided. This will result in the Professional Appraiser developing annual trending adjustments for above-mentioned property classes.

If the results from the ratio study are outside of the standards set by the DLGF, land base rates, neighborhood delineation, neighborhood factors and stratification of property characteristics or type shall be used to further bring the ratio study into line with the state prescribed standards.

The Professional Appraiser shall act in an advisory role to the Assessor on residential annual adjustment issues.

The Professional Appraiser shall complete an apartment rent study with data compiled to produce gross rent multipliers, vacancy rates, market rents and cap rates. Income producing property shall have all three approaches to value taken under consideration.

The Professional Appraiser shall provide training to the Assessor with regard to the process of annual adjustments for commercial improved and vacant and industrial improved and vacant parcels. This training will also include how to complete an apartment rent study.

The Professional Appraiser shall provide all reports in both electronic and written format. The final study results with all calculations, sales and data shall be forwarded to the DLGF in the format prescribed in 50 IAC 21. These reports shall also be provided to the County and Township Assessors.

The Professional Appraiser shall provide all appeals support should it be necessary for land values, neighborhood delineation, and every study provided by the professional appraiser such as gross rent multipliers, cap rates, etc.

Public relations shall also be a part of this proposal with support at public meetings and/or newspaper articles provided. Either one printed brochure for each improved parcel or five PDF files of brochures shall be provided as decided by the Assessor.

The Professional Appraiser shall start work in regards to this project within ten (10) days of the signing of a contract. Study results shall be completed no later than August 30, 2006. The Professional Appraiser shall work closely with the County and Township Assessors in the execution of this project. The Professional Appraiser shall be available for Assessor meetings and shall give advice on matters that may arise in regards to residential and agricultural trending. All questions shall be answered and the work shall be done to the Assessors satisfaction.

The Professional Appraiser shall be available during normal business hours 8-5 EDT at 1-800-626-7743. Response time shall be within 24 hours.

#### **4. Consideration**

The Assessor shall pay the Professional Appraiser as follows:

A fee of ONE HUNDRED AND TWENTY SEVEN THOUSAND, NINE HUNDRED DOLLARS (\$127,900.00) shall be paid for all duties and responsibilities set forth in this contract.

#### **5. Professional Appraiser Certification; Contract Void on Revocation.**

The Professional Appraiser must be certified as a "professional appraiser" under IC 6-1.1-31.7 in order to enter into this Contract. The Professional Appraiser represents and warrants that he/she/it is certified as a "professional appraiser" under IC 6-1.1-31.7 at the time of entering into this Contract; and will take all steps necessary to remain certified as

a "professional appraiser" under IC 6-1.1-31.7 through the term of this Contract (see Exhibit "A").

In accordance with IC 6-1.1-31.7-4, this Contract is void and the Contractor may not receive additional funds under this Contract, if the Professional Appraiser's certification as a "professional appraiser" under IC 6-1.1-31.7 is revoked.

#### **6. Time And Manner Of Payment.**

The Professional Appraiser shall be paid as follows:

Payment shall be made in thirteen equal installments with the first installment July 1, 2005. Claims shall be submitted and processed according to County policy.

If a portion of the Services cannot be completed due to delays caused by the State of Indiana, the balance of the Services yet to be performed and all other contract terms and conditions will remain in full force and work efforts will proceed to provide the Services not affected by the delays caused by the State of Indiana. The parties shall agree in writing with regard to: (a) which of the Services cannot be completed due to the delay(s) caused by the State of Indiana and (b) the amount owed to the Professional Appraiser on work actually performed by the Professional Appraiser. If no Agreement is reached within 30 days of the above-described delay, then the foregoing two (2) issues shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by either party. Request for mediation shall be filed in writing with the other party to this Agreement. The parties shall share the mediator's fee equally. If the parties are unable to agree upon a mediator, the parties shall request a panel of three (3) state-certified mediators from a judge of the Vanderburgh Superior Court. Each party shall strike the name of one mediator from the panel and the remaining mediator shall be requested to serve. The mediation shall be held in Vanderburgh County, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

#### **7. Non-Discrimination.**

Pursuant to IC 22-9-1-10, the Professional Appraiser and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to the individual's hire, tenure, terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract.

#### **8. General Provisions.**

(a) This Contract sets forth the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral and written agreements and understanding between the Assessor and the Professional Appraiser. No representation, promise, inducement, or statement of intention has been made by either party which is

not set forth in this Contract and neither party shall be bound by or liable for any alleged representation, promise, inducement or statement of intention not so set forth.

(b) No waiver, alteration, modification, or cancellation of any of the provisions of this Contract shall be binding unless made in writing and signed by all those signing this Contract, or their successors in office. The failure of either party at any time or times to require performance of any provisions of this agreement shall not be considered a waiver and will in no manner affect the right at a later time to enforce that provision.

(c) In the event that one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions contained in this Contract. If any provisions contained in this Contract shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it then shall appear.

(d) This Contract shall be subject to and interpreted in accordance with the law of the State of Indiana and suit, if any, shall be brought in Indiana courts.

(e) This Contract shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives, provided, however, that this Contract is not binding upon a successor to the elected office of an undersigned Assessor without the successor's prior written consent, nor can the rights, duties, and privileges of the Professional Appraiser under this contract be transferred, sublicensed or assigned by it, either in whole or in part, without the prior written consent of the Assessor.

## 9. Delays.

Whenever the Professional Appraiser or the Assessor have knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, they shall within 10 days provide written notice of the delay to the other party by certified mail, return receipt requested, including all relevant information with respect to the actual or potential cause of the delay.

## 10. Independent Contractor

In the performance of this Contract, Professional Appraiser will be acting in an individual capacity and not as an agent, employee, partner, joint venturer or associate of the Assessor. The employees or agents of the Professional Appraiser shall not be deemed or construed to be the employees or agents of the Assessor for any purpose whatsoever.

## 11. Liability.

The Professional Appraiser agrees to indemnify, defend, and hold harmless the Assessor and their townships and county, and all agents, officers and employees of those

townships and that county, from all claims and suits including, court costs, attorney's fees, and other expenses, caused by any act or omission of the Professional Appraiser and/or its subcontractors, in connection with this Contract.

## **12. Workers' Compensation and Liability Insurance**

The PROFESSIONAL APPRAISER shall maintain the following insurance during the life of the Agreement:

- A. Comprehensive General Liability insurance covering all operations to include:
  - Independent contractors
  - Contractual liability (broad form)
  - Completed operations Products and completed operations
  - Personal injury with employment exclusion deleted
  - Limits: Bodily Injury and Property Damage combined single limit of \$1,000,000 per occurrence - \$2,000,000 aggregate
- B. Automobile Liability:
  - Covering all owned, non-owned and hired automobiles
  - Limits: Bodily Injury and Property Damage combined single limit of \$1,000,000
- C. Professional Liability
  - Limits: \$1,000,000 each claim
- D. Workers Compensation:
  - Limits: Coverage A: Statutory  
Coverage B: Employers Liability  
\$100,00 each accident  
\$500,000 disease – policy limit  
\$100,000 disease – each employee
- PROFESSIONAL APPRAISER shall maintain and pay premiums for such public liability insurance, property damage insurance and Workers' Compensation as will fully protect it from claims under the Indiana Workers Compensation Act and from any other claims for damages to persons not covered by said Act because of bodily injury, including death, which may arise from or during the performance of the work described in this contract, and PROFESSIONAL APPRAISER shall furnish proof unto ASSESSOR that it has in force said insurance by submitting to ASSESSOR, or agent thereof, a memorandum copy of insurance coverage Umbrella Liability:

- Limits: \$1,000,000 per occurrence and aggregate applying to all bodily injury, personal injury, property damage and errors or omissions.

F. If the General Liability or Professional Liability coverages are provided by a policy on a claims made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or the applicable extended reporting period shall be no earlier than two (2) years after completion of the contract.

G. All coverage shall be placed with an insurance company that is "A" rated and duly admitted in the State of Indiana and shall be reasonably acceptable to ASSESSOR. Coverage shall be afforded to the additional insureds regardless of whether or not a claim is in litigation

H. For each type of insurance which PROFESSIONAL APPRAISER is required to maintain under this Agreement, PROFESSIONAL APPRAISER shall furnish to the ASSESSOR a Certificate or Certificates of Insurance showing that each such type of insurance is in full force and effect, naming the ASSESSOR as an additional insured and providing that such insurance cannot be amended or cancelled without at least thirty (30) days' written notice to ASSESSOR.

### 13. Subcontracting.

No subcontractors shall be used in the performance of this contract. This limitation shall not include the purchase of standard supplies, raw materials or computer systems.

### 14. Force Majeure.

Neither party shall be liable for delays or performance failures resulting from and caused by acts beyond the party's control. Such acts shall include acts of God, acts of war, epidemics, communication line failures, power failures, earthquakes, and other similar disasters. In every case the delays must be beyond the control and without the fault or negligence of the non-performing party.

### 15. Maintaining A Drug-Free Workplace.

Professional Appraiser hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Contract a drug-free workplace, and that it will give written notice to the Assessor within ten (10) days after receiving actual notice that an employee of the Professional Appraiser has been convicted of a criminal drug violation occurring in Professional Appraiser's workplace.

In addition to the provisions of the above, if the total contract amount set forth in this Contract is in excess of \$25,000.00, Professional Appraiser further agrees that this Agreement is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by Professional Appraiser in conjunction with this Contract and which is appended as an Attachment to this Agreement.

It is further expressly agreed that the failure of Professional Appraiser to in good faith comply with the terms of the above, or falsifying or otherwise violating the terms of the certification referenced above shall constitute a material breach of this Contract, and shall entitle the Assessor to impose sanctions against Professional Appraiser including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of Professional Appraiser from doing further business with the County for up to three (3) years.

#### 16. Ownership.

The Professional Appraiser expressly agrees that it is an independent contractor of the Assessor, and that all work product, notes, materials, reports, specifications, source data, maps, computer tapes and digital data generated or created are work-for-hire, and are and remain the sole property of the Assessor, as are all information, documents, data, and other matters conveyed by the Assessor to the Professional Appraiser in performance of its Services.

The Assessor shall own all materials provided to the Assessor as deliverable products. The Professional Appraiser may not in any form distribute, sell, loan, lease or provide the information or data associated with this Agreement in raw or altered form without express written authorization from the Assessor.

Notwithstanding the foregoing, in the event the Professional Appraiser is required by interrogatories, requests for information or documents, subpoena, civil investigation, demand or similar process, to disclose any of the materials identified above, it is agreed that the Professional Appraiser will provide immediate notice of such request(s) to the Assessor. The Professional Appraiser will use reasonable efforts to resist disclosure until an appropriate protective order or protective agreement may be sought and/or the Assessor grants a waiver of compliance with the provisions of this Agreement. If, in the absence of a protective order or waiver of compliance, a court of law or the State of Indiana or an agency thereof requires the disclosure of the information, then the Professional Appraiser may disclose information as required.

#### 17. Termination.

Either party may make termination of this entire agreement, with thirty (30) days written notice. Written notice must be given by certified mail. The remaining fee, which is due the Professional Appraiser from the Assessor, shall be paid an amount determined by mutual written Agreement of the parties. If no Agreement is reached within thirty (30) days of the above-described cancellation, then said issue concerning compensation shall be subject to mediation as a condition precedent to the institution of legal or equitable



proceedings by either party, under the terms and conditions for mediation set forth in Section 8 hereof. If termination is for cause, in which case the remainder of the annual fee shall not be due.

**18. Confidentiality.**

The Professional Appraiser shall maintain the confidentiality of all Assessor information, including but not limited to records, data, information, and correspondence, of any type. All information related to these Services shall be provided to the Assessor only, unless otherwise directed by the Assessor, or as so directed by a court of law of competent jurisdiction.

**19. Prescribed Activity.**

Neither the Professional Appraiser nor its shareholders shall file any type of real or personal property appeal on behalf of any person(s), corporations or business entities in regards to property owned, held or possessed in Vanderburgh County, Indiana, nor will the Professional Appraiser provide information assistance to any appellant or taxpayer representative unless otherwise so directed by an agency of the State of Indiana or by a court of law of competent jurisdiction.

**20. Enforcement.**

The provisions of this Agreement shall be enforceable notwithstanding the existence of any claim by either the Assessor or the Professional Appraiser against the other. Each of the parties of this Agreement shall have the right to specific performance and injunctive relief to enforce the terms of this Agreement provided that all attempts at mediation hereunder have failed prior to the institution of any such cause of action.

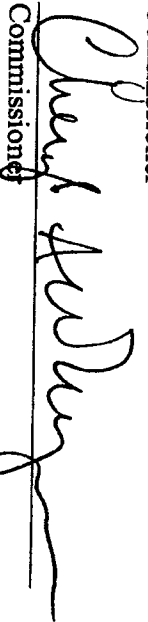
**21. Binding Effect.**

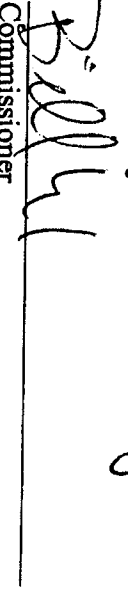
This Agreement shall inure to the benefit of both parties and their successors and permitted assigns shall be binding upon both parties.

IN WITNESS WHEREOF, the parties have executed this contract by their duly authorized officers this 21<sup>ST</sup> day of JUNE, 2005.


VANDERBURGH COUNTY

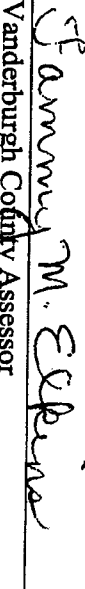
By:   
Commissioner

By:   
Commissioner

By:   
Commissioner

ATTESTED:

  
County Auditor

  
Vanderburgh County Assessor

PROFESSIONAL APPRAISER: Appraisal Research Corporation

By: Richard H. Hoffman, ASA, CAE, MAI, CRE  
President & CEO

## **EXHIBIT A**

**(State Certification)**